

## Nikolas McKinnon

<p style="text-align: center;">Page 1</p> <p>IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA Civil Action No: 1:17-cv-1726-YK</p> <p>ELLEN GERHARD, et al., Plaintiffs, vs. DEPOSITION OF: NIKOLAS McKINNON</p> <p>ENERGY TRANSFER PARTNERS, L.P., et al., Defendants.</p> <p>-----</p> <p>TRANSCRIPT of the stenographic notes of the proceedings in the above-entitled matter, as taken by and before STACEY J. ORLICK, a Certified Shorthand Reporter, License No. XI00226700, and Notary Public of the State of New Jersey, held via Zoom, on April 12, 2022, commencing at 10:14 a.m.</p>	<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES: 2 WILLIAMS CEDAR 3 1515 Market Street 4 Suite 1300 5 Philadelphia, Pennsylvania 19102 6 BY: CHRISTOPHER MARKOS, ESQ. Attorneys for Plaintiff (215) 557-0099 CMarkos@Williamcedar.com</p> <p>7 8 RAIDERS LAW, PC 9 606 N. 5th Street Reading, Pennsylvania 19601 10 BY: RICHARD RAIDERS, ESQ. Attorneys for Plaintiffs (484) 509-2715 Rich@Raiderlaw.com</p> <p>11 12 LAVERY LAW 13 225 Market Street Suite 304 14 Harrisburg, Pennsylvania 17108 15 BY: ELIZABETH L. KRAMER, ESQ. 16 Attorneys for Defendant TIGERSWAN 17 (717) 233-6633 EKramer@Laverylaw.com</p> <p>18 19 McNEES, WALLACE &amp; NURICK, LLC 20 1000 Pine Street P.O. Box 1166 21 Harrisburg, Pennsylvania 17108 BY: ALAN R. BOYNTON, JR., ESQ. 22 BY: STEPHANIE CARFLEY, ESQ. BY: KANDICE KERWIN HULL, ESQ. 23 Attorneys for SUNOCO Defendants (717) 237-5248 24 ABoynton@mcnreeslaw.com SCarfley@mcnreeslaw.com KHull@mcnreeslaw.com</p>
<p style="text-align: center;">Page 3</p> <p>1 PENNSYLVANIA STATE POLICE 2 ASSISTANT COUNSEL 3 1800 Elmerton Avenue Harrisburg, Pennsylvania 17110 4 BY: JESSICA S. DAVIS, ESQ. Attorneys for Defendants 5 BENSON, EHgartner and DUNSMORE (717) 787-0388 5 Jessicdavi@pa.gov</p> <p>6 7 SIANA LAW, LLP 941 Pottstown Pike Suite 200 Chester Springs, Pennsylvania 19425 9 BY: CONNIE HENDERSON, ESQ. Attorneys for defendant NIKOLAS McKINNON 10 (610) 321-5500 Cehenderson@sianalaw.com</p> <p>11 12 13 14 Also Present: Denzel Sinclair Videographer On The Record</p> <p>15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">Page 4</p> <p>1 INDEX 2 WITNESS EXAMINATION BY PAGE 3 N. McKINNON MR. MARKOS 5, 42 4 MS. KRAMER 40</p> <p>5 6 7 EXHIBITS 8 NUMBER DESCRIPTION PAGE 9 Exhibit-1 DF TigerSwan 64-69 17 Exhibit-2 DF TigerSwan 1915 &amp; 1916 17 Exhibit-3 Images 18 Exhibit-4 DF TigerSwan 81-85 23</p> <p>10 11 12 (Original exhibits retained by counsel.)</p> <p>13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p>1        THE VIDEOGRAPHER: We are now on the record. My      2        name is Denzel Sinclair. I'm a videographer retained by      3        On the Record. This is a video deposition for the      4        United States District Court for the district of      5        Pennsylvania. Today's date is April 12, 2022. The time      6        is 10:14 a.m. in the matter of Gerhart versus Energy      7        Transfer Partners, et al. The deponent is Nikolas      8        McKinnon. All counsel will be noted on the record and      9        Stacey Orlick will now swear in the witness.      10      NIKOLAS MCKINNON, having been duly sworn      11      by the Notary Public, testified as follows:      12      EXAMINATION BY MR. MARKOS:      13      Q. Good morning, Nick. My name is Christopher      14      Markos. I'm an attorney representing the plaintiffs in      15      this case. We are here to take your deposition. I want      16      to give you a few sort of ground rules first for      17      everybody's benefit. Can you say and spell your name      18      for the record.      19      A. Nikolas, N-i-k-o-l-a-s, last name McKinnon,      20      M-c-K-i-n-n-o-n.      21      Q. Have you ever been deposed before, Nick?      22      A. No.      23      Q. We used to do the face to face in person but      24      there's no difference practically when we do this over      25      Zoom. The ground rules are the same, and most important</p>	<p>1        is that we let each other finish our respective      2        questions and answers before the other person speaks.      3        The reason for that is because no accurate transcript      4        could be made of two people talking over each other.      5        It's also important that you let me finish my question      6        because while you may anticipate what I'm going to say,      7        it's a normal thing we do in conversations, it's      8        possible that I may be saying something slightly      9        different. That's another reason why it's important you      10      let me finish. Likewise, I will extend the same courtesy      11      to you and let you finish your answers before I jump in      12      with my next question or followup.      13      You were just sworn in. This deposition is being      14      used for a Civil Court proceeding. The same sort of      15      issues regarding your sworn testimony are in place today      16      just as if you were testifying in court. Do you      17      understand that?      18      A. I do.      19      Q. As you know, this is being videotaped just as      20      it's important for an accurate transcript in how when we      21      speak, how we speak is also important, so while you may      22      nod your head or shake your head it's still necessary      23      for you to verbalize your response because those are      24      ambiguous gestures and your verbal response will be      25      needed for the written transcript in this deposition.</p>
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<p>1        Does that make sense to you?      2      A. It does.      3      Q. If you need to take a break, I don't think we'll      4      be exceptionally long today, but you can take a break at      5      any time as long as there's no question pending. If      6      there's a question pending, finish your answer and you      7      can take a short break. Do you have any questions about      8      what I have just reviewed?      9      A. No.      10     Q. Nick, do you have an attorney representing you      11     today?      12     A. I do not.      13     Q. Did you have an opportunity to seek counsel for      14     this deposition?      15     A. Yes.      16     Q. Can you tell me where you live?      17     A. I live in Spotsylvania, Virginia.      18     Q. If you know, is that more than 100 miles from      19     Harrisburg?      20     A. Yes.      21     Q. We are asking you about your work background, so      22     let's start with TigerSwan and work backwards. When did      23     you start working for TigerSwan?      24     A. I think it was October 2016, I believe.      25     Q. Were you hired as an employee?</p>	<p>1      A. No, an independent contractor.      2      Q. At some point in time did you become an      3      employee?      4      A. Yes.      5      Q. How did that get formalized?      6      A. With an employment agreement.      7      Q. Do you recall when that happened?      8      A. January 2018.      9      Q. From January '18 -- do you still work for      10     TigerSwan today?      11     A. No.      12     Q. When with did you leave your employment with      13     TigerSwan?      14     A. July 2018.      15     Q. Were you fired by TigerSwan?      16     A. No, I left on my own accord.      17     Q. Before you became an independent contractor in      18     2016 with TigerSwan, what was your employment?      19     A. I'm an independent contractor for different      20     government contracts, mostly military.      21     Q. Do you have military service experience?      22     A. Yes.      23     Q. What branch did you serve in?      24     A. Navy.      25     Q. For what period of time?</p>

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<p>1 A. '98 to 2004.</p> <p>2 Q. What was your rank?</p> <p>3 A. I was an E-5, second class petty officer.</p> <p>4 Q. E means enlisted?</p> <p>5 A. Correct.</p> <p>6 Q. When you left the military, did you become an independent contractor?</p> <p>7 A. Yes.</p> <p>8 Q. Your independent contractor work, is it fair to say that that was in the defense industry?</p> <p>9 A. Yes.</p> <p>10 Q. Were there any other industries that you worked in?</p> <p>11 A. Yes, I have also worked in private enterprise for different -- I would say high profile VIP individuals or families.</p> <p>12 Q. Performing what services?</p> <p>13 A. Mostly protection in the form of gathering intelligence and/or providing sort of an outer bubble, that is, works dynamically with the executive protection team. It provides like a counter surveillance bubble that gives indications and warnings to the executive protection team.</p> <p>14 Q. You were providing security services; is that right?</p>	<p>1 A. Essentially.</p> <p>2 Q. Were security services the sort of genre of your work between living the military and joining TigerSwan?</p> <p>3 A. That's a general term I guess we could use.</p> <p>4 Q. That's fair to use?</p> <p>5 A. Yes.</p> <p>6 Q. Did you go to college?</p> <p>7 A. I have.</p> <p>8 Q. Where did you go to college?</p> <p>9 A. Multiple different places.</p> <p>10 Q. Where did you graduate from?</p> <p>11 A. I have a semester left.</p> <p>12 Q. I want to ask how you gained experience and training in providing security services.</p> <p>13 A. How did I gain the experience?</p> <p>14 Q. Right.</p> <p>15 A. Well, I mean through the military, different schools, on-the-job training and duty. During my military service I received training at different schools and also on the job you learn a lot about security and other things as you're securing the nation, and then follow on training when I left the military into the independent contracting world.</p> <p>16 Q. What year did you leave the military?</p> <p>17 A. 2004.</p>
<p>1 Q. Honorable discharge?</p> <p>2 A. Yes.</p> <p>3 Q. Did you receive on the job security training by TigerSwan?</p> <p>4 A. No.</p> <p>5 MS. KRAMER: Object to form.</p> <p>6 Q. When you joined TigerSwan, what were you specifically hired to do?</p> <p>7 A. Initially the product I worked on was the Dakota Access Pipeline, also known as DAPL, and I was -- I think I originally started as an intelligence analyst and eventually was a deputy program manager.</p> <p>8 Q. How long did you do that, DAPL related work?</p> <p>9 A. About a year.</p> <p>10 Q. At some point in time you shifted focus to</p> <p>11 Mariners two; is that fair?</p> <p>12 A. Yes, I was asked by TigerSwan to leave, or actually, I left a project in New York that they had me working on and they asked me to take over for the guy who was the senior security adviser in Pennsylvania for ME2, Mariner East two.</p> <p>13 Q. Do you draw any distinction in your mind between</p> <p>14 Mariners Two and Mariners two X?</p> <p>15 MS. KRAMER: Object to form.</p> <p>16 Q. When were you assigned to take over security</p>	<p>1 Q. advising on Mariner East Two?</p> <p>2 A. It had to be the summer of '16 or my dates are a little off. I'm thinking it was the summer of 2016, something like that.</p> <p>3 Q. Are you approximating?</p> <p>4 A. I am.</p> <p>5 Q. Can you describe to us what your job responsibilities were at overseeing security for Mariner East Two?</p> <p>6 A. My main objective was to assess any security risks, potential risks, for Energy Transfer, the client of TigerSwan.</p> <p>7 Q. Does security risk include risks to people working on the construction of the pipeline?</p> <p>8 A. Yes.</p> <p>9 Q. Does it include risks to the equipment being used to construct the pipeline?</p> <p>10 A. Yes.</p> <p>11 Q. I would assume it also includes risks to the pipeline infrastructure itself?</p> <p>12 A. Yes.</p> <p>13 Q. How long were you involved in security for</p> <p>14 Mariner East Two?</p> <p>15 A. It's about 18 months, I believe. Again, I'm approximating, 14 to 18 months, something like that.</p>

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<p>1 Q. Was your job with DAPL the same in general 2 terms, was it the same as your job with Mariner East 3 two?</p> <p>4 MS. KRAMER: Object to form.</p> <p>5 A. No, I would say they were two very different 6 projects.</p> <p>7 Q. Did you ever have an opportunity or did you ever 8 read the complaint filed in this case?</p> <p>9 A. I have read it.</p> <p>10 Q. How recently or not recently?</p> <p>11 A. I would say three weeks to a month ago.</p> <p>12 Q. When you were senior security adviser for 13 Mariner East two working for TigerSwan, is that -- while 14 you were in that role, is that when you transitioned 15 from independent contractor to an employee?</p> <p>16 A. Yes.</p> <p>17 Q. When you were an independent contractor, did you 18 have a TigerSwan e-mail address?</p> <p>19 A. Yes.</p> <p>20 Q. Did you carry the same e-mail address over when 21 you became an employee?</p> <p>22 A. Yes.</p> <p>23 Q. When you were an independent contractor, were 24 your business expenses reimbursed?</p> <p>25 A. Yes.</p>	<p>1 Q. Were they reimbursed in your sort of gross 2 payment or were they reimbursed separately?</p> <p>3 MS. KRAMER: Object to form.</p> <p>4 A. Separately.</p> <p>5 Q. Was that the same arrangement for reimbursement 6 of your business expenses when you became an employee?</p> <p>7 A. Yes. It might have been different forms or 8 paperwork. I don't recall, but I was reimbursed for any 9 fuel or other businesses expenses that one would incur 10 while working at a remote location, not an office.</p> <p>11 Q. I'm going to share a document via the share 12 screen function. It is marked as attorney's eyes only, 13 but you wrote this, but I will maintain that it's 14 accepted from the confidentiality agreement. Showing 15 him is accepted. Do you recognize this document, Nik?</p> <p>16 A. I do now.</p> <p>17 Q. I'm going to give you a chance to read it so I 18 will scroll down and you tell me when you are ready?</p> <p>19 MS. KRAMER: What's the date on this report?</p> <p>20 MR. MARKOS: May 30, 2017 and the date stamp is 21 TigerSwan 64 to 69.</p> <p>22 A. I'm done reading that.</p> <p>23 Q. The date here was May 30, 2017. Nik, does this 24 date in reviewing the document, help you pinpoint when 25 you started your role as senior security adviser with</p>
<p>1 Mariner East two?</p> <p>2 A. It must have been in spring 2017.</p> <p>3 Q. I'm going to ask you for some of the, for lack 4 of a better word, jargon in here.</p> <p>5 A. Yes.</p> <p>6 Q. Do you see where it says ERE's?</p> <p>7 A. Yes.</p> <p>8 Q. What are ERE's?</p> <p>9 A. I was actually trying to remember myself, 10 environmental -- I was trying to remember myself as I 11 was reading it, but it was something -- I think it was 12 environmental radical something. I don't remember 13 honestly.</p> <p>14 Q. Do you see here where it says SSA, is that you, 15 senior security adviser?</p> <p>16 A. It is.</p> <p>17 Q. Anti FERC narrative, is that the federal agency?</p> <p>18 A. Yes, FERC.</p> <p>19 Q. ROW is right-of-way?</p> <p>20 A. Yes. That's bothering me. Environmental 21 radical elements or something to that affect.</p> <p>22 Q. That's the flavor of it, in other words?</p> <p>23 A. Yes, I just can't remember if that's the exact 24 -- what the acronym exactly meant, but that was the 25 flavor, yes.</p>	<p>1 Q. Did you create the acronym?</p> <p>2 A. Not to my knowledge, no.</p> <p>3 Q. Was it in use by TigerSwan when you took over 4 the role of senior security adviser for Mariner East 5 two?</p> <p>6 MS. KRAMER: Object to form.</p> <p>7 A. It had to have been if I used it and I didn't 8 create it.</p> <p>9 Q. I'm back on the first page. Who did you write 10 this report for?</p> <p>11 A. For Energy Transfer ultimately.</p> <p>12 Q. How was it delivered to them?</p> <p>13 A. I think at this point I would send -- because 14 this was early on in my tenure on ME2, Mariner East, I 15 would send this back to Apex, Apex is like where 16 TigerSwan is headquartered, they would do a quality 17 assurance kind of QA check on it, and then they would 18 e-mail it to the ETP folks at this point. I think at 19 some point I was going direct to ETP and I copied 20 TigerSwan Apex folks.</p> <p>21 Q. When you would send these kind of reports 22 directly to ETP, do you remember who you sent them to?</p> <p>23 A. I want to say there was a mailing list. It was 24 a pretty big list at one point and then it changed over 25 the course of time, but there were, to my recollection,</p>

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<p>1       multiple individuals that would receive this.</p> <p>2           MR. MARKOS: For the record, we'll mark this as</p> <p>3       Exhibit 1.</p> <p>4       Q. Who is Tim Beckman, if you know?</p> <p>5       A. Tim was an intelligence analyst that worked out</p> <p>6       of TigerSwan headquarters in Apex.</p> <p>7       Q. That's Apex, North Carolina, right?</p> <p>8       A. Apex, North Carolina, correct.</p> <p>9       Q. I'm putting up another document, EF TigerSwan</p> <p>10      1915 and 1916. The first page this is for the benefit</p> <p>11      of counsel. It will show the next page was drafted by</p> <p>12      the witness. Here is the page I wanted you to look,</p> <p>13      tell me when you're ready, just this one page, DF 1916?</p> <p>14      A. Yeah, I'm ready.</p> <p>15      Q. Did you draft this document?</p> <p>16      A. If it has my name on it I drafted it.</p> <p>17      Q. Do you see the link in the middle of the page</p> <p>18      that Facebook.com/PA progress?</p> <p>19      A. Yes.</p> <p>20      Q. Do you know what that web site is?</p> <p>21      A. From what I recall that was a made up account or</p> <p>22      organization by folks back in Apex.</p> <p>23      Q. Meaning by TigerSwan?</p> <p>24      A. Correct.</p> <p>25      MS. KRAMER: Objection to form.</p>	<p>1       Q. Do you know who was involved with PA progress?</p> <p>2       A. To my recollection it would have been Rob Rice</p> <p>3       for sure. I don't know of anyone else specifically</p> <p>4       involved, but it's a small office so there could have</p> <p>5       been other individuals involved as well.</p> <p>6       Q. This report you see the date on the top, 26th,</p> <p>7       June, 2017?</p> <p>8       A. Yes.</p> <p>9       Q. At the time you drafted this document, were you</p> <p>10      aware of PA Progress?</p> <p>11      A. I don't recall.</p> <p>12      Q. Were you aware of TigerSwan's involvement in PA</p> <p>13      Progress in June 2017?</p> <p>14      MS. KRAMER: Object to form.</p> <p>15      A. I don't recall. All I can say is I don't</p> <p>16      remember specifically. I just know that at some point I</p> <p>17      was knowledgeable of it.</p> <p>18      Q. Fair enough. Do you see a new page?</p> <p>19      A. Yes.</p> <p>20      Q. This will be Exhibit-3. It's quite long. Tell</p> <p>21      me when to scroll.</p> <p>22      A. Go ahead. Okay. Okay. Okay.</p> <p>23      Q. Have you seen this document before?</p> <p>24      A. It looks familiar.</p> <p>25      Q. Do you recall where you saw it?</p>
<p>1       A. I assume it was e-mailed to me at some point.</p> <p>2       Q. While you were working at TigerSwan?</p> <p>3       A. Correct.</p> <p>4       MS. KRAMER: Objection to the form.</p> <p>5       Q. Have you seen these images independent of this</p> <p>6       document?</p> <p>7       A. I mean, some look familiar maybe from Facebook,</p> <p>8       but otherwise, no.</p> <p>9       Q. Do you see the photographs of Kari Smitherman</p> <p>10      and Sparrow?</p> <p>11      A. Yes.</p> <p>12      Q. You were familiar with the complaint about a</p> <p>13      month ago?</p> <p>14      A. Yes.</p> <p>15      Q. Do you recall there's an allegation in the</p> <p>16      complaint that an "infiltrator" was sent on to the</p> <p>17      Gerhart property?</p> <p>18      A. Yes.</p> <p>19      Q. Do you have any information independent of what</p> <p>20      the complaint says about somebody sent on to the Gerhart</p> <p>21      property by TigerSwan?</p> <p>22      MS. KRAMER: Object to form.</p> <p>23      A. There was someone that was sent to Camp White</p> <p>24      Pine.</p> <p>25      Q. Do you recall when that happened?</p>	<p>1       A. Not the exact time period. I remember it was</p> <p>2       warm still, so probably summer 2017 sometime.</p> <p>3       Q. Was it one or more than one person?</p> <p>4       A. One person.</p> <p>5       Q. For what purpose was that person sent to Camp</p> <p>6       White Pine?</p> <p>7       A. To collect intelligence.</p> <p>8       MS. KRAMER: Objection.</p> <p>9       Q. Did that person report to you?</p> <p>10      MS. KRAMER: Objection to form.</p> <p>11      A. Not to me directly. I did not oversee anyone at</p> <p>12      that point in time, not any human being.</p> <p>13      Q. Do you know who the person was?</p> <p>14      A. I know it was a female, a white female,</p> <p>15      approximately 5'6", probably 145. I don't recall her</p> <p>16      name.</p> <p>17      Q. Did she use her real name in the camp?</p> <p>18      MS. KRAMER: Object to form.</p> <p>19      A. No, I wouldn't imagine she would. That would</p> <p>20      kind of go against what her objective was.</p> <p>21      Q. Do you know if she was in the camp or if she</p> <p>22      went to the home, the Gerhard home?</p> <p>23      MS. KRAMER: Object to form.</p> <p>24      A. I recall both and just based on what I remember</p> <p>25      of the setup of kind of the landscape and the geography</p>

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<p>1 you had to go to the home and then to access the camp      2 you would have to be on the Gerhart property if you      3 weren't part of construction and then access the camp      4 from their home. If you were part of construction there      5 was an easement on the far side of the right-of-way that      6 you could access the camp area which was the      7 right-of-way.</p> <p>8 Q. Do you know whether this woman lived for a      9 period of time at the camp?</p> <p>10 A. I don't recall her ever living there. I      11 remember her making a couple of visits, but never spent      12 the night or anything like that.</p> <p>13 Q. Do you know what information she gathered and      14 provided to TigerSwan?</p> <p>15 MS. KRAMER: Object to form.</p> <p>16 A. I would assume that document probably was -- so      17 all of that information was collected, the layout of the      18 tree sits and how they were utilizing those. That's      19 about all I can remember.</p> <p>20 Q. Do you know if TigerSwan -- this woman was used      21 to gather intelligence you said, right?</p> <p>22 A. Correct.</p> <p>23 Q. Did TigerSwan use anybody to gather intelligence      24 from Camp White Pine from outside Camp White Pine?</p> <p>25 MS. KRAMER: Object to form.</p>	<p>1 A. Yes.      2 Q. Was it a TigerSwan employee?      3 MS. KRAMER: Object to form.      4 A. I don't know. I mean, even -- open source      5 intelligence is essentially just looking at Facebook so      6 if you have an open Facebook account or if you have an      7 open group that's on Facebook, even I can access, and at      8 this point I would have been an independent contractor.      9 I could look at Camp White Pine or you can look at      10 anyone on the planet who has Facebook if their privacy      11 settings are not set, so that someone who is not their      12 friend or -- I haven't been on social media for like      13 five or six years, so whatever the tech terms are for      14 the privacy settings you can look at anyone's account      15 and glean information from that.      16 Q. I appreciate your answer. I was trying to ask      17 something different, so the person you said went to Camp      18 White Pine was an individual gathering intelligence      19 through their senses; is that fair?      20 MS. KRAMER: Objection to form.      21 A. Yes, when you have a human make contact with a      22 -- what's the word I'm looking for, a group that you are      23 interested in for whatever reason, that's called human      24 intelligence or human is the acronym.      25 Q. Did TigerSwan utilize human intelligence for</p>
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<p>1 Camp White Pine outside of the Gerhart property?      2 MS. KRAMER: Object to form.      3 A. Outside of the Gerhart property? Yes.      4 Q. Let me pull that document back up. That might      5 help.      6 A. I remember. The individual went to -- I think      7 she had somebody in a laundromat where she made contact      8 with someone, coffee shop where she made someone with      9 someone, so there were multiple places in the Huntington      10 area that this person was collecting intelligence or      11 information to pass back to TigerSwan.      12 Q. As far as you know, it was just the one person?      13 MS. KRAMER: Objection to form.      14 A. As far as I know, yes.      15 Q. The next document is dated June 20, 2017      16 TigerSwan 81 through 85 and we'll mark it as Exhibit-4.      17 Tell me when you are ready for me to scroll.      18 A. Environmental rights extremists is what ERE      19 means. Okay. Okay.      20 Q. I actually only have a question with reference      21 to the helicopter. One thing is clear. The first page      22 has your name on it and you are identified as the senior      23 security adviser?      24 A. Yes.      25 Q. There's another name, the chief security</p>	<p>1 officer?      2 A. Yes.      3 Q. In your role as senior security adviser -- one      4 of your roles as senior security adviser was to draft      5 these SITREPs?      6 A. Yes.      7 Q. Is it fair to assume if your name is on it you      8 wrote it?      9 MS. KRAMER: Objection to form.      10 A. Yes.      11 Q. On the second page of the documents under      12 highlights you talked about a recent helicopter activity      13 conducted by a private charter company, do you see that?      14 A. Yes.      15 Q. On the next page of the document you identify      16 the helicopter as being flown by Air Chopper LLC?      17 A. Yes.      18 Q. Do you recall this specific helicopter or the      19 flight?      20 MS. KRAMER: Objection to form.      21 A. Not specifically because there were multiple      22 helicopter fly overs of the runway throughout my tenure      23 there.      24 Q. Were those fly overs coordinated by TigerSwan?      25 MS. KRAMER: Objection to form.</p>

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<p>1 A. No, TigerSwan doesn't own helicopters as far as 2 I know.</p> <p>3 Q. I understand that answer, but as part of the 4 security services that were being provided to Energy 5 Transfer, was TigerSwan coordinating helicopter fly 6 overs of the east coast?</p> <p>7 A. No.</p> <p>8 MS. KRAMER: Objection to form.</p> <p>9 Q. How did you come to learn that the helicopter 10 and the fly over was owned by Air Chopper LLC?</p> <p>11 A. I'm trying to remember. I don't recall 12 specifically. I can only make assumptions. I don't 13 know if you want those or not.</p> <p>14 Q. I just asked about helicopters, but I have 15 another related question. Did TigerSwan fly drones over 16 the easement?</p> <p>17 A. I don't remember anyone associated with 18 TigerSwan ever flying drones, no.</p> <p>19 Q. I'm going to pull up the second amended 20 complaint. Unless anybody objects, I wasn't planning on 21 marking it. Do you see paragraph 147?</p> <p>22 A. I do.</p> <p>23 Q. It says, "posts on Facebook falsely ascribe to 24 Elise Gerhart claims that the helicopter flown over the 25 Gerhart property are of rush and origin"?</p>	<p>1 A. Yes.</p> <p>2 Q. Does that paragraph have any connection to the 3 report of the helicopter that we just looked at, the 4 June 20th SITREP?</p> <p>5 A. Most likely, but again, there are multiple times 6 that the right-of-way was flown by a helicopter, but I 7 think the time frame based on that report and then the 8 report we got from the human intelligence aspect that 9 was ongoing at that time would -- that's when the rush 10 and origin information came out.</p> <p>11 Q. If I understand you correctly, the rush and 12 origin information was provided -- the comment about 13 rush and origin was provided to TigerSwan by this human 14 intelligence person?</p> <p>15 MS. KRAMER: Objection to form.</p> <p>16 A. Initially, yes.</p> <p>17 Q. Not to get distracted. Do you know the name 18 Kurt Meriweather?</p> <p>19 A. Doesn't ring a bell.</p> <p>20 Q. What about Cedar Fork Partners?</p> <p>21 A. No.</p> <p>22 Q. Do you know the name Nick or Nicholas Johnson?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know the name Nate Johnson?</p> <p>25 A. No.</p>
<p style="text-align: center;">Page 27</p> <p>1 Q. How do you know the name Nicholas Johnson?</p> <p>2 A. I'm pretty certain I was in communication with 3 him. I think he worked in Apex or he was an independent 4 contractor that worked remotely for TigerSwan, one of 5 the two.</p> <p>6 Q. For what purpose were you in communication with 7 him?</p> <p>8 A. He was also an intel analyst type, so anybody 9 who was in the intel analyst position would support the 10 folks that were on the ground at a certain project to 11 provide kind of a summary of all the open source 12 information.</p> <p>13 Q. As a senior security adviser, were you working 14 in Pennsylvania physically?</p> <p>15 A. Yes.</p> <p>16 Q. In that role, did you have direct supervision 17 over those intel analysts, that group you just talked 18 about?</p> <p>19 MS. KRAMER: Object to form. I don't think he 20 specified what project he was referring to on that.</p> <p>21 MR. MARKOS: On what?</p> <p>22 MS. KRAMER: The whole line of questioning is 23 unclear, but that's fine.</p> <p>24 Q. During what period of time were you in contact 25 with Nick Johnson?</p>	<p style="text-align: center;">Page 28</p> <p>1 A. During the time I worked on the ME2 project and 2 potentially before that on DAPL, but I don't recall 3 exactly.</p> <p>4 Q. As the senior security adviser for the ME2 5 pipeline, did you have direct supervisory authority over 6 -- what do you say his role was, Nick Johnson's?</p> <p>7 A. I believe intel analyst.</p> <p>8 Q. As senior security adviser for the ME2 pipeline, 9 did you have supervisory authority over intel analysts 10 at TigerSwan?</p> <p>11 MS. KRAMER: Objection to form.</p> <p>12 A. I did not.</p> <p>13 Q. Did you rely on their work in order to perform 14 your job functions?</p> <p>15 A. Not necessarily. My understanding was that 16 Energy transfer or what was Sunoco and then became 17 Energy Transfer was paying TigerSwan for certain 18 products or skill sets that they could provide to Energy 19 Transport. Does that make sense?</p> <p>20 Q. I think I understand.</p> <p>21 A. My job didn't depend on that intelligence 22 reporting specifically, but it was a promised service of 23 my understanding in the contract relationship between 24 TigerSwan and Energy Transfer.</p> <p>25 Q. We talked about the PA progress before. Would</p>

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<p>1 you include PA Progress in those promised services?</p> <p>2 MS. KRAMER: Object to form of the.</p> <p>3 A. I don't -- that one to me is a little different</p> <p>4 because nobody from Energy Transfer that I ever recall</p> <p>5 speaking to ever asked for that type of service, nor did</p> <p>6 they really -- they didn't think it was beneficial in</p> <p>7 the long run, so I'm not sure why or who directed PA</p> <p>8 Progress or any other web site or pro pipeline narrative</p> <p>9 articles to be published. I'm not sure who directed</p> <p>10 that.</p> <p>11 Q. Are you talking about you're not sure who at</p> <p>12 Energy Transport?</p> <p>13 A. No, who at TigerSwan directed that. It wouldn't</p> <p>14 have been anybody at Energy Transfer that directed that.</p> <p>15 Q. When you were the senior security adviser for</p> <p>16 TigerSwan, was TigerSwan providing services to any other</p> <p>17 entity besides Energy Transfer/Sunoco?</p> <p>18 MS. KRAMER: Object to form.</p> <p>19 A. Yes.</p> <p>20 Q. For Mariner East two?</p> <p>21 A. No.</p> <p>22 Q. Was one of your responsibilities as the Mariner</p> <p>23 East two senior security adviser to discover whether</p> <p>24 Camp White Pine was a security threat as we defined</p> <p>25 security threat earlier?</p>	<p>1 A. Yes.</p> <p>2 Q. Did you make such a determination?</p> <p>3 A. At some point, but I don't remember. It may</p> <p>4 have even fluctuated because that's the way risk</p> <p>5 analysis sometimes work is that hypothetically in</p> <p>6 January you may assess that something is a high risk and</p> <p>7 in February for whatever reason the high risk turns into</p> <p>8 a low risk and in March it goes back up to a high risk,</p> <p>9 so at some point, yeah, I think there were multiple</p> <p>10 analyses or determinations made throughout the time</p> <p>11 period I was on the project.</p> <p>12 Q. Was there a point when you determined Camp White</p> <p>13 Pine was not a security threat or risk?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall when?</p> <p>16 A. I don't remember exactly, but I want to say it</p> <p>17 was nearing -- it was probably winter 2018, nearing the</p> <p>18 spring.</p> <p>19 Q. Did you utilize any communication apps for work</p> <p>20 related communication while you were senior security</p> <p>21 adviser for ME2?</p> <p>22 A. Communication apps, yes.</p> <p>23 Q. Was one of those WhatsApp?</p> <p>24 A. Yes.</p> <p>25 Q. Were there other apps?</p>
<p style="text-align: center;">Page 31</p> <p>1 A. Not for that project, no, not that I recall.</p> <p>2 That seemed to be the favorite app of TigerSwan to use</p> <p>3 among all the other texting communication apps</p> <p>4 available.</p> <p>5 Q. While you were senior security adviser for</p> <p>6 Mariner East two, do you know if TigerSwan played light</p> <p>7 towers or any other lighting devices on or near the</p> <p>8 Gerhart easement?</p> <p>9 MS. KRAMER: I object to form.</p> <p>10 A. You broke up a little bit there.</p> <p>11 Q. During your time as senior security adviser for</p> <p>12 Mariner East two, did TigerSwan utilize light towers or</p> <p>13 other sort of lighting devices on the easement near the</p> <p>14 Gerhart property?</p> <p>15 MS. KRAMER: Object to form.</p> <p>16 A. Yes.</p> <p>17 Q. Can you describe those devices?</p> <p>18 A. There's only one that I recall. It was a light</p> <p>19 tower that was connected to a video monitoring device</p> <p>20 that could be triggered for the video to come on with</p> <p>21 geofences, so its main purpose was to detect anyone who</p> <p>22 came on to the right of way at night.</p> <p>23 Q. Were the lights also activated by geofencing?</p> <p>24 A. I can't remember if the light activated for</p> <p>25 motion or if it was left on all night. I don't</p>	<p style="text-align: center;">Page 32</p> <p>1 remember.</p> <p>2 Q. Were you ever involved in drafting security</p> <p>3 plans for the Mariner East two project?</p> <p>4 A. Yes, to a certain extent.</p> <p>5 Q. In general, can you describe what a security</p> <p>6 plan is in relation to a pipeline project?</p> <p>7 A. It would be a brief in the sense of -- so that</p> <p>8 others can read it and it would lay out what type of</p> <p>9 security presence would be in a certain area, what the</p> <p>10 safety protocols were, kind of the dos and do nots for</p> <p>11 the individuals that would be participating in the</p> <p>12 security. Also include any devices that may be used</p> <p>13 such as the one I described about a minute ago or hand</p> <p>14 held cameras, for example. I think that sums it up.</p> <p>15 Q. That lighting device, do you know how much light</p> <p>16 it could produce?</p> <p>17 A. It was -- I don't remember the lumens exactly,</p> <p>18 but it was directed in a very specific direction, area</p> <p>19 on the right-of-way so that it would only illuminate, as</p> <p>20 far as I remember, the entrance on to the right-of-way</p> <p>21 from the Gerhart property, so where the Gerhart property</p> <p>22 ended and imminent domain took over, that's where the</p> <p>23 light was pointed toward.</p> <p>24 Q. I asked you about security plans. In your role</p> <p>25 as senior security adviser, did you also recommend how</p>

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<p>1 much security manpower was needed if that question makes 2 sense?</p> <p>3 A. Sometimes.</p> <p>4 Q. Did you do that with respect to the Gerhart 5 property?</p> <p>6 A. I think I came up with an initial recommendation 7 and then it was discussed, obviously, because there's 8 multiple parties involved among Energy Transfer and 9 TigerSwan, and the other security companies that were 10 involved for that particular right-of-way section 11 because those are all the people that stood to make 12 money or save money from that particular right-of-way 13 section, so my recommendation was overseen by multiple 14 entities. It was criticized or edited and eventually 15 they settled on a number of personnel.</p> <p>16 Q. In your experience in the security industry, are 17 you familiar with the term anarchist and the concept of 18 anarchy?</p> <p>19 MS. KRAMER: Object to form.</p> <p>20 A. Yes.</p> <p>21 Q. Does either necessarily denote violence?</p> <p>22 MS. KRAMER: Object to form.</p> <p>23 A. I think in common parlance the understanding of 24 anarchist and even myself included at the time of ME2 25 just the ideology of anarchist there was a sense of</p>	<p>1 violence that went along with anarchy just in common 2 parlance, but then if you look into the actual ideology 3 of anarch or mono anarchism you find that it actually 4 doesn't involve violence, but I didn't find that out 5 until much later.</p> <p>6 Q. How did you find that out?</p> <p>7 A. From my own research interest.</p> <p>8 Q. Were you still working at TigerSwan when you 9 found that out?</p> <p>10 A. No, no, that was years later.</p> <p>11 Q. If you had known that in 2017, would you have 12 made -- would that have changed your analysis of Camp 13 White Pine?</p> <p>14 MS. KRAMER: Object to form.</p> <p>15 A. I mean, I don't even know if I could articulate 16 the ideology very well right now, so I'm not sure I 17 would have been able to articulate that and sway any 18 minds in a different direction then.</p> <p>19 Q. I understand your answer.</p> <p>20 A. I mean, again, anarchy is depicted in movies and 21 television and just in our culture as a violent 22 ideology.</p> <p>23 Q. Understood. TigerSwan's business is providing 24 security, is that fair to say?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">Page 35</p> <p>1 MS. KRAMER: Object to form.</p> <p>2 Q. Does it go beyond that or is there more nuances 3 to it?</p> <p>4 A. I mean, there are other companies that -- if you 5 are just talking about TigerSwan specifically?</p> <p>6 Q. I am.</p> <p>7 A. They provided myself as a security -- senior 8 security adviser, they provided security advisers who 9 eventually on the project reported to me, they provided 10 security guards later on down the road in different 11 areas not near the Gerharts, they provided the intel 12 intelligence updates, they provided the human 13 intelligence, they provided anything that they could 14 sell as an arm of an indication and warning. IMW is 15 what it's commonly referred to, then that's what they 16 would want to sell to the client, Energy Transfer.</p> <p>17 Q. Are you saying that TigerSwan would exaggerate 18 security risks in order to continue to provide security 19 services?</p> <p>20 MS. KRAMER: Object to form.</p> <p>21 Q. To energy partners specifically?</p> <p>22 MS. KRAMER: Object to form.</p> <p>23 A. I think sometimes there was some elaboration 24 that went on. To what extent I don't recall, but at the 25 end of the day TigerSwan is just like every -- 99</p>	<p style="text-align: center;">Page 36</p> <p>1 percent of businesses they are for profit businesses 2 which they should be in our economy, and the longer they 3 can keep Energy Transfer on as a client of theirs then 4 the longer they could get paid where as even myself the 5 longer I could stay in my position the longer I kept my 6 job, so you try to do a good job and then there may also 7 be -- because it's consulting there may also be some 8 word play that's used that may invigorate a client to 9 keep you on longer.</p> <p>10 Q. Did that invigoration occur with respect to 11 Energy Transfer?</p> <p>12 MS. KRAMER: Object to form.</p> <p>13 A. I mean, I don't remember it being like any 14 specific tactic that was discussed among the leadership 15 at TigerSwan in that form, but there definitely was a 16 push to keep Energy Transfer interested enough so that 17 they would keep TigerSwan on their payroll.</p> <p>18 MR. MARKOS: Can we take a two- or three-minute 19 break?</p> <p>20 THE VIDEOGRAPHER: The time is 11:23. We are 21 Off the record.</p> <p>22 (Whereupon, an off the record discussion was 23 held.)</p> <p>24 THE VIDEOGRAPHER: The time is 11:30. We are 25 now on the record.</p>

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<p>1 Q. I have a few more questions for you, Nik. I      2 want to ask you a little more about the human intel      3 person that was at Camp White Pine. I apologize if you      4 answered this before, but I want to get a better sense      5 what she looked like. Do you recall how old she was,      6 approximately?</p> <p>7 A. Approximately 27 to 31.</p> <p>8 Q. Hair and eye color?</p> <p>9 A. Dirty blond. I don't recall eye color.</p> <p>10 Q. Do you know what name she used when she was      11 talking to Camp White Pine folks?</p> <p>12 A. I don't remember.</p> <p>13 Q. Do you know who would know that?</p> <p>14 A. Anybody that works in Apex that was working      15 during the time they supported Mariner East. I would      16 assume. They have records because somebody had to pay      17 her.</p> <p>18 Q. Was she able to walk without assistance, like a      19 crutch or wheelchair?</p> <p>20 A. Yes.</p> <p>21 Q. Did she have any other distinguishing physical      22 features like tattoos or eyeglasses?</p> <p>23 A. Not to my knowledge, none that I recall seeing.</p> <p>24 Q. Or piercings?</p> <p>25 A. No. I mean, I would assume her ears are</p>	<p>1 pierced, but I don't recall.</p> <p>2 Q. I asked you earlier about drones and      3 helicopters. Did TigerSwan coordinate with the use of      4 fixed wing aircraft to fly over the easement or DTP?</p> <p>5 MS. KRAMER: Object to form.</p> <p>6 A. Not to my knowledge, no.</p> <p>7 Q. Do you know who was in the role of senior      8 security adviser when you took over or before you took      9 over?</p> <p>10 A. Before I took over there was a guy name Al      11 Ornaski and a guy named Chad McGinty.</p> <p>12 Q. Do you know how long they held that position      13 with respect to Mariner East two?</p> <p>14 A. I don't recall exactly.</p> <p>15 Q. Did they specifically brief you on Camp White      16 Pine when you took over that role?</p> <p>17 A. Yes.</p> <p>18 Q. What did they tell you?</p> <p>19 A. That there was an essentially a group of folks      20 that had tree sits that they set up as a blockade to      21 impede the work of pipeline construction for Mariner      22 East two, that it was an ongoing legal dispute between      23 the Gerharts and I guess at the time Sunoco with an      24 imminent domain case, and I believe at that time it had      25 already been decided that Sunoco could use that land</p>
<p>1 based on the judge's ruling of immanent domain when I      2 came on, and then I remember further hearings that      3 occurred after coming on where the same outcome was      4 decided in regard to that land area.</p> <p>5 Q. Did they advise you that they believed that      6 Ellen or Elise Gerhart or anyone from Camp White Pine      7 was planning to damage or destroy pipeline      8 infrastructure in Pennsylvania?</p> <p>9 A. I don't recall Ellen or Elise. No, not briefed      10 to me, no.</p> <p>11 Q. Did you ever come to believe that Ellen or Elise      12 Gerhart planned to destroy or damage pipeline equipment      13 in Pennsylvania?</p> <p>14 A. I mean, I think there was a time when Elise,      15 because she's younger and maybe was more active on      16 social media and would interact with the other affinity      17 groups via social media the potential is there, but it      18 was never assessed as Elise is going to be a kinetic      19 player in the let's go burn down bulldozers game. Ellen      20 was actually more -- I mean personally I was worried      21 about her from just a human standpoint because she would      22 -- she's an older woman and I'm sure she's tough, but      23 her walking on to that right-of-way and while there's      24 bulldozers going and standing in front of them as      25 principled as she is there's a lot of outward about her</p>	<p>1 personal safety. I never thought she -- nor do I think      2 anyone else thought she was a threat to assets.</p> <p>3 MR. MARKOS: I don't have any further questions.      4 Somebody else might.</p> <p>5 EXAMINATION BY MS. KRAMER:</p> <p>6 Q. Hi, I'm Elizabeth Kramer. I'm the attorney for      7 TigerSwan. I have a few questions. I wanted to ask you      8 some questions on some of the information you provided      9 concerning the lighting device that was used on the      10 right-of-way near the Gerhart property. You indicated      11 that there was a single lighting device used near or on      12 the right-of-way at the Gerhart property; is that right?</p> <p>13 A. Correct, closest to the Gerhart property, yes.</p> <p>14 Across the street from the Gerhart property is where the      15 drill pad was and there was a light there, but that had      16 nothing to do with -- that was just so the workers could      17 see what they were doing at night.</p> <p>18 Q. Understood, but the lighting device that we were      19 talking about earlier, do you know who owned that      20 device?</p> <p>21 A. I think it's a company called Black Hawk or      22 something to that affect, Black something Hawk something      23 that -- I'm not sure who introduced that particular      24 piece of equipment to TigerSwan. I just know I was      25 directed by ETP or TigerSwan to meet with the guy who is</p>

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<p>1      familiar with it and then figure out how to utilize it 2      on the right-of-way.</p> <p>3      Q.    Do you know if the construction company had 4      asked for that lighting device to be installed on the 5      right-of-way near the Gerhart property?</p> <p>6      A.    I don't recall who specifically requested that 7      piece of equipment.</p> <p>8      Q.    Do you know who was operating it or monitoring 9      it on a daily basis?</p> <p>10     A.    The company -- so essentially the company that 11     provided the equipment also monitored the cameras and 12     any alerts if, for example, because there was a deer 13     fence set up and even if a deer ran through there it was 14     also motion sensed so if they got an alert and it was 15     a significant one like a human being then they would 16     call multiple people.</p> <p>17     Q.    Were TigerSwan employees or independent 18     contractors actually monitoring the activity on that 19     camera connected to the lighting device?</p> <p>20     A.    Not to my knowledge, no.</p> <p>21     Q.    You said that the lighting device was directed 22     specifically at the entrance of the right-of-way, 23     correct?</p> <p>24     A.    Correct.</p> <p>25     Q.    Was it directed at the Gerhart's home?</p>	<p>1      A.    No. 2      MS. KRAMER: Those are my only questions. 3      EXAMINATION BY MR. MARKOS: 4      Q.    Very briefly about this lighting device, did 5      anybody with access to the right-of-way have access to 6      the device? 7      A.    In what way? 8      Q.    If you could be on the right-of-way, was there 9      anything to prevent you from touching or manipulating? 10     A.    No. 11     Q.    Who would Black Hawk contact if activity was 12     detected by the device? 13     A.    Just to be clear, I'm not sure if that was the 14     actual name. I just remember it was something like 15     that. 16     Q.    Who was contacted if the device detected 17     activity? 18     A.    I believe myself, I think at that time the 19     current VP of oil and gas would have been Derrick Burr 20     at TigerSwan and probably Frank Recnagle at Energy 21     Transfer at least. There may have been more folks. 22     Guardian Angel which TigerSwan owned, I think they may 23     have -- I think they were in a chat with that kind of 24     notification system. 25     Q.    Do you know whether wild life could trigger the</p>
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<p>1      geofence?</p> <p>2      A.    Yes, it could.</p> <p>3      Q.    Do you know if it did near the Gerhart property?</p> <p>4      A.    Yeah, I saw a deer a couple of times. I do 5      recall a deer triggering the camera and then I think 6      after talking to the company they were able to change 7      the algorithm to pick up move a human silhouette rather 8      than wild life.</p> <p>9      Q.    When the lights were on, what direction did they 10     shine?</p> <p>11     A.    You would have to orient me, so I believe the 12     Gerharts were on the north side of the street, is that 13     north, and then that main road ran east, west, so the 14     right-of-way ran north, south; is that correct, do you 15     guys know?</p> <p>16     Q.    I'm trying to pull up the map for you?</p> <p>17          MR. RAIDERS: If I could assist the main road 18     runs north, south.</p> <p>19     Q.    I will represent to you on Google maps is the 20     Gerhart home.</p> <p>21     A.    Yes.</p> <p>22     Q.    This is 829 running north and south and here is 23     the home. You would probably know better than I do if 24     this clearly is the right-of-way or not.</p> <p>25     A.    It is.</p>	<p>1      Q.    Where was the lighting device placed? 2      A.    Right, down and right, go right, go up, probably 3      right in that area. 4      Q.    Do you know if this is at an elevated point from 5      where the house sits? 6      A.    The house is actually elevated from what I 7      remember. 8      Q.    Could you see the house from this point? 9      A.    Yeah, during the winter you could because all of 10     that foliage that you are seeing in between on the 11     Google map image, all of those leaves would have fallen 12     during the winter and spring, depending on how fast the 13     leaves came back, you could see the house. 14     Q.    Where my house cursor is, is the approximate 15     location of the lighting fixture? 16     A.    Approximately. 17     Q.    What direction would the lights shine when they 18     were on? 19     A.    South and a little bit east toward -- I don't 20     know if you can share a screen. I can point to it. 21     Q.    I don't know if I can. Toward that area? 22     A.    No, it would be toward the house area. 23     Q.    Toward the Gerhart house? 24     A.    Right, south and east. I'm sorry, north and 25     west, more north than -- I'm sorry, more west than</p>

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<p>1        north, though.</p> <p>2        Q.     Generally in this direction?</p> <p>3        A.     Yes, because there was -- it was like an open</p> <p>4        shed if you were to move your cursor more north off the</p> <p>5        right-of-way and now west. Somewhere around there,</p> <p>6        maybe a little bit more south, there's an open shed down</p> <p>7        there that was on the Gerhart property. I think that's</p> <p>8        really the only thing and I recall being on the</p> <p>9        right-of-way and seeing Elise and some other folks in</p> <p>10      that open shed area drinking coffee, eating breakfast,</p> <p>11      yelling at us, things like that. That's the only reason</p> <p>12      I remember, so the only thing I think that light could</p> <p>13      have potentially been seen by is anybody in that open</p> <p>14      shed.</p> <p>15      Q.     The lights shined out rather than down, is that</p> <p>16      fair?</p> <p>17      A.     Yes.</p> <p>18      MS. KRAMER: Object to form.</p> <p>19      Q.     Do you know where on this screen Camp White Pine</p> <p>20      was situated? Again, this is the Gerhart house.</p> <p>21      A.     You are in the general area. I think it was a</p> <p>22      little further east.</p> <p>23      Q.     East or west?</p> <p>24      A.     East.</p> <p>25      Q.     Toward Michael Gerhart?</p>	<p>1        A.     Yes.</p> <p>2        MR. MARKOS: No further questions from me.</p> <p>3        MS. KRAMER: I just have one followup question.</p> <p>4        Q.     If you could approximate distance between where</p> <p>5        the lighting device on the right-of-way on the Gerhart</p> <p>6        property was from the Gerhart home, would you be able to</p> <p>7        approximate that distance?</p> <p>8        A.     I would say at least less than a quarter mile,</p> <p>9        but it was a good walk. It looked like when I saw</p> <p>10      people walking back and forth maybe 800 yards,</p> <p>11      approximately, 800 to 1,000 yards.</p> <p>12      MS. KRAMER: Those are my only questions, so</p> <p>13      thank you.</p> <p>14      THE VIDEOGRAPHER: The time is 11:51. We are</p> <p>15      now off the record.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 47</p>	<p>CERTIFICATE</p> <p>I, STACEY J. ORLICK, a Notary Public and C.S.R. of the State of New Jersey, License No. XI00226700, do hereby certify that prior to the commencement of the examination NIKOLAS McKINNON was duly sworn by me to testify the truth, the whole truth and nothing but the truth.</p> <p>I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.</p> <p>I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.</p> <hr/> <p>Notary Public of the State of New Jersey My Commission expires June 2022 Dated:</p>

<b>A</b>	<b>B</b>	<b>C</b>
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